

FILED

June 23, 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: Jennifer Clark

DEPUTY

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ECOFATOR, INC.,

Plaintiff,

v.

ECOBEE, INC.,

Defendant.

Case No. 6:20-cv-00078-ADA

JURY TRIAL DEMANDED

ECOFATOR, INC.,

Plaintiff,

v.

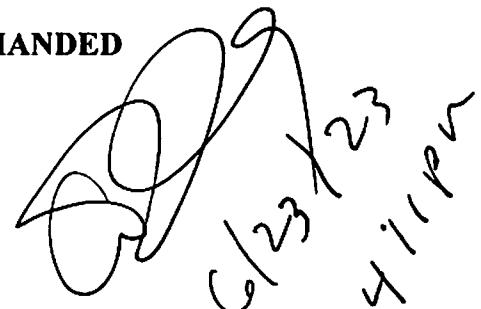
ECOBEE, INC.,

Defendant.

Case No. 6:21-cv-00428-ADA

JURY TRIAL DEMANDED

LEAD CASE



VERDICT FORM

In answering the following questions and filling out this Verdict Form, you are to follow the directions provided throughout the form, and the instructions I have given you in the Court's charge. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. You should refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below. As used herein, "EcoFactor" means EcoFactor, Inc. and "ecobee" means ecobee, Inc. As used herein, "the '327 patent" refers to U.S. Patent No. 8,738,327, and "the '890 patent" refers to U.S. Patent No. 10,584,890.

I. QUESTIONS OF INFRINGEMENT

Please answer Question 1 separately for each asserted patent claim.

Q1. For each asserted patent claim, has EcoFactor proven by a preponderance of the evidence that ecobee has infringed?

Please answer in each cell with “Yes” (for EcoFactor) or “No” (for ecobee).

'327 patent – Claim 1	No
'327 patent – Claim 2	No
'327 patent – Claim 8	No
'890 patent – Claim 3	Yes
'890 patent – Claim 10	No

If you answered “YES” as to any claim in Question 1, then proceed to Question 2.

If you answered “NO” as to all claims in Question 1, then do not answer Question 2 and proceed to the final signature page.

II. QUESTION OF DAMAGES

Q2. What amount of damages would compensate EcoFactor for ecobee’s infringement of the Asserted Patents? (Complete either (A) a lump sum payment or (B) a per-unit royalty below).

(A)	A lump-sum payment of \$ <u>5,400,000.00</u> . (for past and future damages)
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– OR –

(B)	A per-unit royalty calculated as follows: $\frac{\text{(number of units)}}{\text{(per-unit amount)}} \times \$ = \$$ (for past damages through trial)
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FINAL PAGE OF THE VERDICT FORM

You have now reached the end of the Verdict Form and should review it to make sure it accurately reflects your unanimous determinations. After you are satisfied that your unanimous answers are correctly reflected above, your Jury Foreperson should then sign and date this Verdict Form in the spaces below. Once that is done, please notify the Court Security Officer that you have reached a verdict. The Jury Foreperson should retain possession of the Verdict Form and bring it when the jury is brought back into the courtroom.

I certify that the jury unanimously concurs in every element of the above verdict.

Signed on this 23 day of June, 2023.



JURY FOREPERSON